

through. Becker answered the questions in a round, full voice. His voice, in fact, was the loudest and firmest in the courtroom.

BECKER'S VOICE CLEARER IN COURT.
When asked if he had ever before been convicted of a crime he answered "Yes, on the same charge."

Clerk Penny instructed a court officer to whisper to Becker that the former conviction, because of reversal by the Court of Appeals, did not count. The question was repeated and Becker answered:

"No."

Mr. Manton asked the court to set a date for the imposition of sentence. Justice Seabury inquired if a week from to-day would be satisfactory to the defense. Mr. Manton replied in the affirmative, and Becker was remanded to the Tombs to await sentence to death in the electric chair, which will be pronounced on May 29.

As Becker left the room, carrying his straw hat in his left hand, his step was firm, his eye was bright and his demeanor as confident as at any time during the trial. But as he was crossing the Bridge of Sighs he plucked nervously at the front of his collar, as though gasping for air.

MRS. BECKER BREAKS DOWN.
Mrs. Becker was in the Sheriff's room off the courtroom when the verdict was returned. She heard reporters shouting the news through the corridors to other reporters at telephone and at once became hysterical. John Becker, the brother of the convicted man, hastened to her side and tried to comfort her, but her collapse was complete and she was turned over to the care of the Tombs matron.

There were not over forty persons in the courtroom when the verdict was rendered. The general impression had been that the deliberations of the jury would be prolonged.

About 100 curious spectators had assembled in the corridors. No demonstration marked the result of the trial.

Justice Seabury issued instructions that the members of the jury should be kept under the protection of court officers until after they had taken the oath at the Murray Hill Hotel.

Becker's only comment was made as he was passing out of the courtroom. A friend said: "I am sorry for you, Charlie."

"No am I," replied Becker. "Vary, vary sorry."

For the first hour and a quarter the charge of Justice Seabury to the jury impressed those who heard it as a marvellously colorless and dispassionate review of the evidence. It was impossible for one to know what the Justice himself really thought of the comparative value of the testimony of the various witnesses.

But when he went into the evidence with instructions as to the legal weight to be attached to it he elaborated some of the testimony offered against Becker even more than Mr. Whitman elaborated in his closing argument. The elaboration was of course all in the form of questions which members of the jury ought to ask themselves.

POINT RAISED BY JUDGE AS TO PHONE CALLS.

When he was through asking these questions there seemed only one answer to his last question: "Why did you call Becker on the telephone?" If he did call him—and talk to him about the murder? And is there corroboration of his conversation, its nature and its substance?"

Weight was also laid upon the testimony of Mrs. Rosenthal as to her talk with Becker in the raised gallery.

Mr. Manton took the unusual step of exempting to the whole charge on the ground that it was "animated argument." Justice Seabury flushed and said the exception was "immoderate and unwarranted."

"I am merely trying to protect the interests of my client, sir," protested Mr. Manton. The Justice ignored the remark.

Becker sat with his hands resting on his lap, or leaning his chin on his hand following every syllable which came from the lips of the Justice. He seemed hopeful and showed the signs of his ordeal only by a look about his eyes as though he were in

not have been made by Mr. Manton himself. The Justice was careful in every sentence to qualify it by the words "to the people content."

COURT OUTLINES POINTS FOR THE DEFENSE.
"The defendant," said the Justice, when he concluded the outline of Mr. Whitman's case, "has the right of not guilty puts to the issue of truth every fact in the indictment and every fact in these contentions of the prosecution."

"The defense contends that the murder of Rosenthal was inspired and brought about by a war of gangsters. You understand, of course, that this is no obligation to show who killed Herman Rosenthal or why. But he may give such an explanation in the course of proof that he was in no way concerned in the crime."

"What motives did the defendant have for ending the life of Rosenthal?" asked the Court. "What in his conduct before and after the crime gives color to the belief that he is guilty? That is for you to determine."

Justice Seabury went back to the evidence of Rose, Mrs. Rosenthal, the waiters, servants and family friends of Rose regarding the intimacy of Rose and Becker.

"What was the defendant's relationship with Rosenthal?" he went on. "This question is one for you to ask yourselves. Do you believe Rose that they met at the Elks Club? Do you believe Mrs. Rosenthal, whom Becker promised to help Rosenthal? Rose tells of similar expressions of a desire to aid Rosenthal."

"The defense," the Justice, "contends that Becker had no motive for having Rosenthal killed; that there was a gangster's quarrel among legitimate and illegitimate men who were in the Tombs with the motive for the murder."

"The prosecution contends that the defendant faced trial, loss of money, disgrace and loss of position unless Rosenthal was silenced. That, they say, is the motive."

"Motive is not essential to establishing the crime. But where circumstantial evidence points to guilt, motive is important as strengthening circumstantial evidence, or the lack of it, in weakening the importance of such evidence."

Justice Seabury read authorities on the importance of motive in circumstantial cases.

"The defendant," he asked, "direct the killing of Rosenthal? You recall the testimony of Rose that this defendant said that Rosenthal must be killed—that there was danger and that Becker complained and said the murder must be committed before the District Attorney could be reached by Herman Rosenthal."

"HARLEM CONFERENCE" THE MOST IMPORTANT POINT.
The most important question for you to determine is whether there was a meeting in Harlem before the murder as described. You heard the witness Marshall say that he saw Rose and Becker, and this defendant talking together on this occasion."

"Vallon said he saw Marshall. The policemen told how one or another of them was constantly with Becker from the time he left his home until he left them after midnight."

"It is for you to say whether Marshall was honestly mistaken in his identification of Rose as being there. It is not for me to say that Becker was there or that Marshall was there. It is most important whether Rose and the others were there and to determine as to what, and you alone."

"Did this defendant direct the killing of Herman Rosenthal? If he did not you should acquit him. If you believe beyond a reasonable doubt that he did you must find him guilty. The verdict must be free from PREJUDICE."

"You must disregard the fact that this defendant was a police lieutenant and you are trying him for bribery or corruption. Your opinions of his conduct except as relating to the murder of Herman Rosenthal are of no importance."

"If you believe that this defendant is an innocent victim of a gigantic conspiracy by Rose, Vallon and Webster to hold him responsible for this murder, you may acquit him. Justice does not require a victim regardless of guilt."

"If the defendant did procure and bring about the death of Rosenthal it would be a mockery of justice for you to allow him to go free."

"The law does not require you to cast aside all the evidence of a witness who in your judgment has not told the truth as to material facts. The law says you may cast it aside if you think best."

"And now," he concluded, "the issue of justice in this case rests with you twelve men and twelve men alone. The determination of the truth is yours to find. If you find the truth your duty is truly done."

Justice Seabury then defined the varying degrees of homicide, explaining that such a definition was required in such cases.

Justice Seabury commanded the jury to forget everything said by counsel except so far as they had explained the purpose of offering evidence and the importance of the unconnected value of its links. He then summed up the facts conceded by both sides as to Becker's police duties and the existence of Rosenthal's gambling house.

Justice Seabury then outlined the people's claims, rehearsing in the briefest and most colorless manner the narrative of the murder as set forth by connecting all the evidence offered by Mr. Whitman. A colder resume of the prosecution's theory of the case, in the opinion of the auditors who had an opportunity to exchange whispered comments, could

not have been made by Mr. Manton himself. The Justice was careful in every sentence to qualify it by the words "to the people content."

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MELLEN A MARTYR FOR MORGAN; GOT FIRED AS REWARD

Ex-New Haven Head Says He Was Indicted to Save Financier.

SON FORCED HIM OUT.

Bore Burden Because He Feared Indictment Would Have Killed J. P. Sr.

WASHINGTON, May 22.—Because he realized that if the man really to blame—the late J. Pierpont Morgan—was held responsible and indicted it would have meant his death, Charles S. Mellen concealed the truth and accepted his own indictment. In re-payment for his self-sacrifice he was "practically fired" from his position as head of the New Haven by the son of the man he saved.

In a remarkable statement dying this contention Mellen completed his testimony to-day before the Interstate Commerce Commission.

The final setting of the Mellen story, admittedly the most remarkable ever unfolded by the Interstate Commerce Commission, was sensational. Attorney Folk had carried the witness through three hours of talk the materiality of which as evidence was open to doubt. Then he took up the deal with the Grand Trunk. Mellen explained that he had fled with the commission a complete and technical report of the entire transaction that had resulted in his indictment.

TELLS OF MORGAN'S PART IN THE TRANSACTION.
"But that is not all of it," he said. "Did the late J. P. Morgan take any part in this transaction?" asked Attorney Folk.

"He did," was the emphatic reply. "I did not know that Mr. Morgan had any knowledge of the fact that I was endeavoring to arrange for an exchange of business with the officials of the Grand Trunk until he came to my office at a time when I had a conference on with the officials of the Canadian system. He told them very sympathetically that the Grand Trunk had agreed long ago to turn over to him for the New Haven the New London and Northern system."

"He told them that there would never be any permanent peace between the two systems until that promise was kept. He left the room and I told those officials that I knew nothing about this matter. I told them that the New Haven was ready to fight the Grand Trunk for business. I told them we were in shape to make the fight a costly one and that I hoped they would go ahead and construct their line to Providence."

"It was on that basis that we parted. In a week or so I learned to my utter amazement that the Grand Trunk in New York was investigating and that it was the intention of the District Attorney to cause my indictment for violating the anti-trust law. Then came the news of the indictment. It was a distinct shock to me, as I was not the man to blame."

"You issued a statement dealing with the matter, however, did you not?" asked Folk.

"Yes, sir; but it was not prepared by me. It was completed by Lewis Cass Ledyard and Mr. Edward S. Robbins, New York attorneys."

"I want to say right here and now that I almost killed everybody in my office and associated with me in my efforts to shoulder all the blame at that time. I knew the men they were after was Mr. Morgan. I realized the condition of his health just then. I knew positively that if he were to have been indicted it would have killed him. There was nothing I would not have done to have aided Mr. Morgan."

Mellen's voice had broken for the first time in the trying ordeal. There were real tears in his eyes. He was very plainly overcome by his emotions.

"Did you ever tell Mr. Morgan's son about this?" interrupted Folk.

"Yes, sir, I did," was the answer. Now there was a very distinct trace of anger in the dejected railroad chief's manner.

"When he came and told me that he believed it would be for the best for me to leave the New Haven system I told him that I did not think this a proper reward for what I had done in accepting disgrace to save his father. He felt badly about it and assured me in a broken voice that if his father had been indicted at this time it would have killed him. But he accepted my resignation."

This ended Mellen's story and he was excused.

Attorney Folk announced that his quartet of next important witnesses—William Rockefeller, George McCulloch Miller, Samuel Morehouse and H. M. Kochersperger—had all filed physicians' certificates that their lives would be endangered if they were forced to testify.

"But Mr. Rockefeller was able to attend a New Haven meeting in New York yesterday," said Commissioner McChord.

Mellen broke in to explain that he could not answer a series of questions consecutively without a complete breakdown. He declared that Miller and Kochersperger were also very ill. Commissioner McChord finally adjourned the proceedings until next Tuesday in order that an investigation may be made to find the exact state of health of the four men.

Mr. Folk expressed great surprise to-day when told that William Rockefeller was at a New Haven directors' meeting in New York yesterday, but would not say whether he would be compelled to come here for examination.

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Beginning his examination, Mr. Folk asked Mr. Mellen to tell something about the purchase by the New Haven of the Rutland Railroad.

"That was a Vermont corporation operating in New York and Vermont," replied Mr. Mellen, "and is a natural extension north and west of the New Haven lines. We purchased from the New York Central one-half of its interest in the Rutland, which gave us the control."

"Did the purchase of the Rutland have anything to do with the agreement reached with the Boston and Albany?"

"Yes and no. There were so many negotiations affecting the Boston and Albany at that time that they may possibly be regarded as having been handled together."

"What was the Tarrytown, White Plains and Mamaroneck Railway?" asked Mr. Folk.

"That was an electric line running through White Plains. It was sold at public auction. It brought between \$300,000 and \$1,000,000."

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"Did it cost 150 per cent. of its cost?"

"Well, it cost more than its receipts."

"Who did against you in the acquisition of the property?"

"The third Vermont organization committee of New York."

"Did not the New Haven buy Waterbury Gas Company stock, according to the company?" asked Mr. Folk.

"Yes, through the Housatonic Power Company, a subsidiary."

"What was the price paid per share?"

"I think about 65."

"Had it not been selling at 40?"

"I do not know. It was worth what we paid. We later leased it to the United Light and Power Company of Philadelphia and made \$100,000 a year out of it."

Mr. Mellen testified that the New Haven's entry into the lighting business was due to its leasing the Connecticut Railroad and Lighting Company.

"Under that lease we got the Connecticut Lighting Company's lease of the Waterbury company, which was to expire a few years later, and we thought it advisable to get control of the line against the time of its expiration."

Mellen was asked if the New Haven had not worked along non-partisan lines, using any party in power.

"Why, of course," he said. "We always got under the best umbrella."

ASKED MELLEN IF HE WROTE PRAYER.
Folk then read into the record the celebrated "prayer from the Hills," circulated throughout New Haven territory, which was as follows:

"I will life up mine eyes to the Hills." Folk asked Mellen if he had not personally written this.

"No," Mellen replied. "I am not a member of the Hills church."

A four of laughter greeted Mellen's rejoinder. Apparently needed, Folk tried to show that the New Haven circulated the "prayer," which was a tribute to the railroad. Mellen admitted this was true and added that it cost him nothing.

Mellen again told of employing Prof. Bruce Lyman of Harvard for \$20,000 to advise the New Haven regarding the employment of various newspaper representatives. He said he had no personal knowledge of the transactions, but that he had no doubt all of the men gave a good return for their money.

"They all helped to bring popular sentiment to the aid of New Haven projects," demanded Folk.

"They certainly did," Mellen replied.

He added that the firm of Innes & Tuttle of Boston was paid also by the New Haven for publicity work.

Mellen stated that his publicity campaign had been remarkably cheap.

the New Haven was the best set of men ever assembled around a table," was Mellen's final word about his former associates. "The average was about fifty. They were men in their prime and they discussed everything brought before them."

SAID SOME DIRECTORS HAD TO BE WAKENED.
Folk tried to show some of the directors were so aged that Mellen had to wake them up occasionally, but Commissioner McChord ruled out this line of questioning.

Mellen said he was forced by a combination of the trunk lines terminating in New York, Ontario and Western Railroad.

He tried to buy the Lehigh and Hudson system to reduce the freightage in New York harbor. He consulted the trunk lines about the purchase and they bought the property over his head, so he quietly secured an option on the Ontario and Western from Jacob H. Schiff of Kuhn, Loeb & Co.

The directors approved the purchase at \$4 a share, although the stock was quoted at \$3. The difference, Mellen said, represented the cost of securing entire control.

Interrogating Mr. Mellen as to the acquisition of the Worcester Railway and Investment Company, Mr. Folk asked why Wm. A. Reed & Company of New York, got \$10 more a share than had been paid to others.

"That was a hold-up," answered Mr. Mellen.

Q. A hold-up by Reed & Company? A. Well, I was not holding myself up. Mr. Mellen added: "An intimidation case, but that if we wanted regulation it would be a good idea to trade for stock."

"Was this in writing?"

"These things never come in writing, but they reach the spot nevertheless."

Mr. Mellen, repeating previous testimony given by him regarding the payment of \$100,000 in commissions to S. F. Kelley, was asked by Mr. Folk:

"Have you told us everything about this transaction?"

"Well, after I go to bed at night since I have been testifying I think of things that might have been brought out and I turn over and congratulate myself that they were not."

BILLARD THE "SALT OF THE EARTH," SAYS MELLEN.
Speaking of Judge Robertson, another member of the board, Mr. Mellen said he was a man "who would lend dignity to any occasion upon which he was present. He illuminated every question under consideration."

"I want to say concerning the men of means on the New Haven board or other boards that I do not believe a large fortune necessarily is an incentive to ambition."

Mr. Folk went through the list of directors and asked Mr. Mellen something about each one. John L. Billard, Mr. Mellen said, was the "salt of the earth."

"He salted the earth, didn't he?" asked Mr. Folk.

"He never got any salt to which he was not entitled," Mr. Mellen replied.

"Who is George F. Baker?"

"Everybody that knows anything of the financial affairs of the country knows the prominent and active part he plays."

Thomas De Witt Cuyler, Mr. Mellen said, sat on the board as the representative of the Pennsylvania Railroad.

"How about Samuel Reed?" Mr. Mellen was asked.

"He is a little branch line that runs into Washington," was the reply.

A Department of Justice official, assigned to the New Haven case, declared this afternoon that Mellen's testimony to-day will not result in giving the former New Haven head immunity from prosecution already begun or under consideration.

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PETITION IN NEWARK FOR COMMISSION RULE

Nearly 10,000 Names Are Signed, Although Only 8,000 Were Required by Law.

City Clerk Connelly of Newark received to-day a petition bearing 3,795 signatures asking that a special election be held to decide whether or not Newark shall adopt a commission form of government.

The petition was turned in by a committee which has been working for some time to get the required number of signatures—4,000 in this case.

Mr. Connelly was asked to place the petition on file. He informed that committee that he would first have to ascertain whether all forms of law had been complied with and verify the signatures. This means that there will be another long delay before the question of a commission form of government can be placed before the voters of Newark.

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